

Administrative Technology and General Administrative Procedure: Challenges and Changes in South-Eastern Europe

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Current reforms of the general administrative procedure acts in South-Eastern Europe can be seen as interplay between the legalistic tradition and political and managerial pressure on the rationalization of public administration. Eighty-year tradition of general administrative procedure in the region, especially on the territory of the former Yugoslavia, is an obstacle to administrative modernisation, because administrative procedures are frequently used for and abused in various bureaucratic manoeuvres. Although general administrative procedures can ensure better legal protection of citizens if certain conditions are fulfilled, they should not be used for reducing the complexity of administrative tasks to routine legalistic decision-making. The development of administrative justice can add significantly to the improvement of legal protection of citizens,

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and it can simultaneously ensure streamlining, simplification and acceleration of administrative procedures. Such modernisation of administrative procedure can be, in the next step, accompanied by significant modernisation of public management. However, instead of the radical New Public Management ideas, legally bounded management seems to be the proper solution.

Key words: administrative technology, general administrative procedure, rule of law, New Public Management, good governance, European Administrative Space, legally bounded management

1. Introduction

Administrative procedure is a point of possible inter-breeding between public management and administrative law. Too frequently neglected, this is an issue of possible dialogue among and reconciliation of the scholars dealing with public administration, administrative law, and public management. Administrative law cultivates the perspective of improving legal regulation and – sometimes – of developing many new, increasingly precise legal rules that ask for narrowing the discretion in dealing with administrative cases. Public management is mostly preoccupied with fostering efficiency and reducing the costs of public administration, looking at the administrative procedures as obstacles to such aspirations. At the end, classical public administration analyses various nuances of procedural institutions and searches for the most appropriate technological subtypes of performing public tasks.

Administrative procedures attract the interest of public administration practitioners, both the civil servants and public sector reformers. While civil servants are mostly interested in improving their everyday contacts with citizens or their personal position within public administration, the reformers are eager to present administrative procedures as a field of possible improvement of the public sector and its harmonisation with politically determined strategic priorities. Last, but not the least, European bodies and advisors are requiring more efficient, transparent and fair procedures as components of better capable public administrations, fit to coalesce with the European Administrative Space.

South-Eastern European countries are characterised by the efforts of administrative reform. As many others in the world, these countries are co-

ping with their administrative traditions and broader influences of the New Public Management exporters and (domestic) proponents coming on the wind of globalisation (for similar situation see Jreisat, 2010: 623). They are also exposed to influences and demands from the European Union level. Finally, their citizens expect the large, sluggish, expensive, and non-transparent public administrations to change, to provide better support to the countries' development and to deliver public services fairly. Under such circumstances, administrative technology is attracting a lot of interest, and administrative procedures are its significant component.

An attempt at enumeration and analysis of a dozen theses can provide better insight into the issue of streamlining administrative procedures in the contemporary governance situation in South-Eastern Europe.

2. Theses on the improvement of administrative technology

2.1. South-Eastern European countries are under constant pressure to accept the philosophy, values, principles, and practices of New Public Management

There is a kind of clash between the NPM and administrative procedures. On the one hand, the proponents of NPM blame administrative procedures to be time-consuming, non-transparent, and bureaucratic. On the other hand, lawyers employed in the public sector see the NPM as a threat to the established legal values and traditional ways of doing things.

The pressure on the countries in the region to accept the philosophy, values, principles, and practices of NPM comes from certain international players (the World Bank, the International Monetary Fund, etc.), but also from the business community (both domestic and foreign entrepreneurs). Additionally, there are more and more public managers being recruited from the private sector who accept the ideology of NPM. Certain influential media, mostly in foreign ownership, strongly advocate for practicing the public management methods regardless the rule of law, speculating that in such a way public administration can be more efficient, economic and effective. Deregulation (»regulatory guillotine«), debureaucratization, simplification of administrative procedures, have become very popular reform words in the region (see for example Kovač, Virant, 2011; Davitkovski, Daneva, 2011; Koprić, 2011).

Fortunately, there is a different influence from the European Union and the Council of Europe, who want SEE countries to design stable institutions, stick to, and promote the rule of law, transparency, impartiality and professionalism in their respective public sectors (Koprić et al., 2011).

The reform of general administrative procedure, conducted by the preparation and adoption of the new acts on general administrative procedure, is a common activity in the region, promoted by both the NPM proponents and the European Union. It is also a never-ending activity. Some countries adopted new general administrative procedure acts at the end of the 1990s (FR Yugoslavia 1997, Federation of Bosnia and Herzegovina 1998, Slovenia 1999). They were followed by Bosnia and Herzegovina at the federal level and Republic of Srpska (2002), Montenegro (2003), and Macedonia (2005). Croatia is a latecomer who adopted its new General Administrative Procedure Act in 2009.

However, amendments have been relatively frequent (seven times in Slovenia, for example), showing that new rules and institutions have not fully stabilized yet. Furthermore, a draft of new General Administrative Procedure Act has been prepared in Albania, while a rather modern draft is well under preparation in Serbia. Montenegro may adopt its new General Administrative Procedure Act during 2012, since policy preparations for drafting a new Act are at the very beginning. Macedonia is entering into this process, too.

2.2. Public administrations in South-Eastern European countries are also under pressure from domestic political actors to be rationalized

Rationalization is used in a sense of pressure to do more with less (civil servants, money, and resources), to do better in shorter terms, etc. Public administration is often treated as a scapegoat that should be blamed for all the sins of unsuccessful politics, not to mention that public managers and politicians try to influence recruitment, appraisals, disciplinary responsibility, and other elements of the civil servants status. Merit-based civil services are under development, politicization is the common issue in South-Eastern European space. It is a kind of vicious circle, in which politicians influence the civil service, and blame it for failures, cause low trust of citizens and weak organizational culture, then influence it even more and again, etc. Many citizens are also in favour of hollowing out the state, treating the civil service as a huge, oversized machine full of lazy bureaucrats, and lodging their political frustrations to public administrations.

2.3. Countries on the territory of the former Yugoslavia have a long tradition in regulation of the general administrative procedure

The first successful codification of administrative procedural rules in Europe was made by Austria in 1925. Several countries followed it, regulating general administrative procedures in a very similar vein. These were Czechoslovakia and Poland in 1928 and the Kingdom of Yugoslavia in 1930. The second Yugoslav General Administrative Procedure Act was adopted in the early socialist period, in 1956. It should be noted that even immediately after World War II, legal rules of the first Yugoslav General Administrative Procedure Act of 1930 were widely applied in practice. The General Administrative Procedure Act of 1956 was »the most comprehensive and the most detailed codification in the World«, having not less than 303 articles (Krbek, 2003: 36).

The Yugoslav General Administrative Procedure Act of 1956 was amended four times, in 1965, 1977, 1978 and 1986, but in its main features remained rather similar to the first version, even to the old Yugoslav General Administrative Procedure Act of 1930.

All the countries of the former Yugoslavia have adopted new acts on general administrative procedure. The degree of their modernization is different, but certain features and rules remain very similar, if not the same. Current legal regulation of general administrative procedure is still based on the old Austrian tradition, i.e. on the ideas of classical, Weberian public administration. Similar legal regulation of administrative procedures for almost eighty years has had a profound effect on the generations of lawyers and civil servants in general, as well as on citizens. General administrative procedure has become part of the institutional memory and social capital of the countries in the former Yugoslav territory. It is in a way in-built in everyday life. However, it also causes rigidity and formalism in practice.

Other European countries codified their general administrative procedural rules after World War II or during the past few decades.¹ The countries in the region also codified administrative procedure a bit late: Bulgaria in

¹ Hungary in 1957, Spain in 1958, Poland in 1960, Czechoslovakia in 1967, Switzerland in 1968, Bulgaria in 1970, Germany in 1976 (federal law), Denmark in 1986, Sweden in 1986, Italy in 1990, Portugal in 1991, the Netherlands in 1994, Greece in 1999, etc. – Medvedović, 2003: 415; Rusch, 2009: 8.

1970 and Greece only in 1999. Romania has prepared the Code of Administrative Procedure, but it has not been adopted until 2011 (Bălan & Troanță Rebeleş, 2007: 20).

2.4. Administrative procedures are an inevitable part of everyday administrative decision-making, along with strategic, policy and managerial decision-making

It may be advisable not to confuse these areas of decision-making within public administrations. It is not possible to apply the same rules to everyday management of administrative organizations and to the issuing decisions in administrative procedures in which public administrations decide on citizens' rights, obligations, and legally based interests. Because of that, the situation with administrative procedures and public management can be conceptualized as cohabitation at best, not as unity.

In spite of that, there are some interesting developments on both sides, caused by certain interdependencies and mutual influences between public management and administrative law.

Administrative procedures and administrative law benefited from the public management in a number of ways. For example, it has been recognized that managers should not be responsible for the very content of administrative acts, because it ought to be only legally grounded. However, managers are responsible for timelines of administrative acts or for case flow, and a new electronically based technique called case management or electronic case management has been developed. The whole deregulation movement is here to open space not only for making the lives of citizens and entrepreneurs easier, but also for making the decisions of public managers unfettered (or less fettered).

However, opening space for free managerial decisions can lead to corruption and many other unwanted effects. That is why public management has simultaneously been under constant pressure, at least in continental European countries, to be ever more legally bounded. Just to mention a few developments: the development of access to information as a fundamental right, many new rules on data protection, the General Administrative Procedure Acts upgraded by the standards of procedural transparency (Sigma, 2010: 5), the meticulous development of legal regulation on public procurements, new anti-corruption rules, ever developing rules of public finances with regard to spending of the public funds, legal constraints for managerial decisions on the recruitment of civil servants and

decisions on other elements of civil servants' status, etc. The law leaves less and less space for fully free decisions of public managers.

Further, public managers are under legal pressure in public institutions (health, education, etc.) and public enterprises (even if they are private providers of the services of general economic interest). When the new General Administrative Procedure Acts provide for legal protection of citizens against real (material) acts (by lodging complaint, for example), this also narrows managers' space for free decision-making.²

2.5. There are at least three components of administrative technology:³ material resources, work techniques and processes, and knowledge. All of them can be analyzed with regard to administrative procedures

There is an enormous information technology (IT) development that should be taken into account in legal regulation of administrative procedures, too (Dunleavy et al., 2005). New channels of communication between citizens and public administrations, which are faster than regular mail, and equally secure, should be used. Administrative efficiency may be improved, as files and records may be more accurate and richer, the communication between administrative organizations can become much faster, the delivery of administrative acts quicker and unambiguous, etc.

General administrative procedure is one of the most important formally regulated work processes in public administration. Although general administrative procedure can be classified as a relatively routine technology, it is not very simple. Its complexity is growing along with the regulation of new variations, such as the regulation of full and shortened procedure, the issuing of administrative contracts, the regulation of protection from real acts, etc. However, general administrative procedure is built around the idea of serial interdependence – the next procedural step should follow the previous one, and completing the previous step is a precondition for going further. This makes things easier, indeed.

² »Real (material) acts are all forms of activities of an authority which have effects to the rights, obligations and/or lawful interest of persons, but do not produce direct and independent legal effects such as forewarning, public information, publication of expert opinions, reports, the actions of execution of the administrative acts and other factual actions.«, describes one of the GAPA drafts.

³ Details in: Koprić, 1999: 235–236.

The preconditions for effective application of thoroughly regulated administrative procedures are classic legal and administrative knowledge and high education of the respective civil servants. Today, familiarity with detailed rules is not enough, a much wider insight into basic administrative principles, international standards, citizens' and businesses' expectations, and other relevant circumstances is necessary (more detailed analysis in Koprić, 2011a).

2.6. Administrative procedure and administrative justice (administrative dispute) are crucial and interdependent elements of the system of protection of citizens' rights

Legal protection of citizens is a complex system consisting of procedural protection within public administration, national and international court control over administrative acts and actions, court protection of constitutional rights (mostly before the constitutional courts), ombudsman protection, guarantees of open access to public sector information, protection of human rights and fundamental freedoms (before the European Court of Human Rights in Strasbourg), etc.

Changes in the administrative justice system cause changes in administrative procedures, while effective administrative procedures can relieve the situation in administrative justice. Standards set by Article 6 of the European Convention of Human Rights and Fundamental Freedoms (the Convention) require the administrative dispute to be in two-tier system of administrative justice with »full jurisdiction« administrative dispute. The two-tier administrative justice systems are being built, with public hearing and the right to appeal to the higher court. Ratification of the Convention, the Court judicature, and spreading of the common European model of administrative justice⁴ are the main reasons for current reforms of administrative justice systems in many SEE countries. There are more successful (Jerovšek, 2006) as well as somewhat clumsy (Davitkovski & Pavlovska-Daneva, 2009: 134–138) attempts of reforming administrative justice systems. All such efforts mean upgrading rather old, and old-fashioned, now also legally inappropriate, administrative justice systems in the region.⁵ Only Slovenia, Romania, Bulgaria, and Macedonia have two-tier

⁴ About such a common model see Woehrling, 2006; Observatory, 2007; Winkler, 2007.

⁵ About the development of the »old« system of administrative justice in Yugoslavia, see Medvedović, 2003a.

systems of administrative justice, formally in line with the standards of the Convention, but with some deficiencies. Croatia is just introducing it.⁶ Greece has a three-tier system, also in line with the European legal standards (Observatory, 2007: 26–27).

In such a new situation, the necessity to regulate two-tier administrative *procedures* is not as pronounced as in previous times. The traditional concept of administrative procedure, inherited from the Yugoslav times, imitated a court procedure with very similar guarantees of public hearing, right to appeal, etc. Such a concept is not needed in the new situation with two-tier administrative justice system.

The Convention guarantees issuing cases within a reasonable time. According to the new case law of the European Court, the time spent on conducting administrative procedures is to be calculated into the period assessed under the notion of »reasonableness«. If so, this is an obvious reason for shortening and simplifying administrative procedures.

There is another argument relevant to the situation. The Convention asks for »an independent and impartial tribunal established by law«, while administrative bodies acting in administrative procedures do not have such characteristics.

All things considered, administrative procedures should be and can be simplified and shortened without risks for citizens' rights, because there are tremendous changes in improving the quality and guarantees within the administrative justice (see Koprić, 2009b: 32–33).

2.7. Some public management values, such as efficiency and economy,⁷ have already been built into administrative procedures, but it is not enough

Certain General Administrative Procedure Acts regulate the principles of efficiency and economy. Yugoslav General Administrative Procedure Act regulated them in Articles 6 and 13, respectively (see also Art. 10 of

⁶ The new, two-tier system will be effective in Croatia from the beginning of 2012. Koprić, 2011b.

⁷ Both old and new public management are prominent administrative doctrines that are focused on efficiency, economy and effectiveness (the three E's). However, neither old nor new public management are unique concepts. Efficiency and economy were the favourable values in the first phase of the New Public Management movement. See also de Vries, 2009: 6.

the new Croatian General Administrative Procedure Act). New features and regulations also contribute to the application of principles. One-stop-shop (Art. 22 of the Croatian General Administrative Procedure Act), possibility of solving the case by means of settlement (Art. 57), electronic communications (Art. 75), electronic delivery (Art. 94), simpler rules for simpler cases (Art. 48–50; 99), are but some examples.

However, if General Administrative Procedure Act regulates such values, it is far from enough to introduce economic-type values into public administrations. The scope of such a law is limited only to administrative cases, and cannot cover all sorts of administrative functioning, i.e. non-routine tasks, such as strategic planning, policy making, even everyday management of public organisations.

2.8. Current reforms of the General Administrative Procedure Acts encompass new elements and institutes of administrative procedure, such as:

- The guarantees of the principle of proportionality,
- The right to access data, files, web pages and information, and protection of personal data,
- The introduction of administrative contracts as a new form of resolving administrative cases,
- Regulating forms of electronic communication,
- The protection of citizens in cases of so-called real acts,⁸
- The protection of consumers in their relationships with providers of services of general interest,
- Certain simplifications of procedural steps,
- The introduction of points of single contact (one-stop-shops),
- More rigorous regulation of time limits and consideration of positive fiction of administrative acts (positive silence of administration), etc.

⁸ »Real (material) acts are all forms of activities of an authority which have effects on the rights, obligations and/or lawful interest of persons, but do not produce direct and independent legal effects such as forewarning, public information, publication of expert opinions, reports, the actions of execution of the administrative acts and other factual actions.«

The following among them can be considered as NPM inspired elements and institutes:

- The affirmation of administrative contracts,⁹
- Providing for one-stop-shop (but, not fully and not in a right way),
- The simplification of procedural steps,
- Regulation of e-communication and an attempt to shorten deadlines for decision-making can provide for improvement in case management.

It can be easily concluded that an increasing number of new features and procedural elements stem from the intention to make administrative procedures even stricter and to regulate managerial discretionary space in a more detailed manner.

2.9. Regulation of administrative procedures can influence managerial space of action

For example, if managers are stipulated as officially responsible for issuing administrative acts, they will tend to spend less time on real problems in managing administrative organization and could be overburdened with routine administrative cases. It was common in South-Eastern European countries for the civil servants to be responsible for conducting the proceedings, while public managers retained the rights to make final decision and sign the administrative act. In the new General Administrative Procedure Acts and in draft General Administrative Procedure Acts (in the preparatory phase in Serbia, Albania, and Montenegro), this has been changed. The new idea is to fully recognize the civil servants as capable of leading the procedure and of deciding on the grounds of established facts and according to material law.¹⁰

⁹ However, Croatia has adopted the French concept of administrative contracts that is not much in favour of managerial discretion. Some other countries might opt for the German concept of administrative contract that replaces administrative act (draft Albanian General Administrative Procedure Act, for example).

¹⁰ Despite being new, the Croatian General Administrative Procedure Act of 2009 does not fully accept this way of thinking. It still opens a possibility for perpetuating an old way of deciding by politically appointed functionaries (Article 23).

However, in many administrative bodies (ministries, other state administrative bodies, etc.) top functionaries are appointed politically. It is rather disputable whether they are pure public managers. Their general political influence may be a reflection of the necessary democratic accountability arrangements only while they are not engaged in deciding on concrete administrative law cases. In such cases, administrative procedures are in-admissibly politicized.

Because of that, a clear delimitation of managerial sphere and administrative procedures is needed, not only for the sake of impartiality of administrative procedures, but also for the sake of managerial discretion. The domination of either public law or public management is not productive. Parallel cohabitation in clearly delimited matters and issues seems to be the right solution.

2.10. Legality, predictability, and reasonable expectations (trust) are in line with NPM ideals of facilitating business and fostering development, not against them

One of the main purposes of standardized administrative procedures, along with the protection of citizens' rights, is to ensure favourable business environment and positive investment climate in a country (see also Rusch, 2009: 4–6; Koprić, 2010: 9). Stable and efficient administrative procedures rise social trust, lower transaction costs, and curb corruption (Pierre and Rothstein, 2010).

However, standardized procedures are not sufficient. Many other societal problems hinder development, from inherited weak economic situation and low entrepreneurship levels, to the lack of experienced managers and efficient state institutions. Of course, there is also lack of proper public managers at all levels, spanning from the central state to local governments (see also Koprić, 2009).

Finally, different modes of regulating general administrative procedure do matter, as institutions do matter. Heavy, detailed, casuistic regulation of a general administrative procedure does not have the same impact as the more modern regulation focused on wide principles and the most important issues of the protection of citizens' rights. While former can cause red tape and non-transparent situation in the public sector, the later can streamline both procedures and administrative control towards impacts. Administrative procedures should be modernised in order to produce desirable results.

2.11. Bureaucratization of administrative procedures could be an effect of a) regulatory situation (many special, complex, non-transparent procedures), b) incompetent civil servants, c) bureaucratic organizational culture in which civil servants tend to slow their activities and to use legal regulations as an excuse and barrier to effective work

The number of special administrative procedures in Croatia increased in 2006–2010 from about sixty-five to more than a hundred. Some thirteen of them have introduced a sharp departure from the general administrative procedure (Ljubanović, 2010). Similar situation is in the other South-Eastern European countries. This complicates the situation for citizens and other interested parties, making it non-transparent, unpredictable, and generally not in line with the rule of law standards.

There are many problems with professionalism and depoliticisation of the civil servants in the region. Strong political influence on the selection procedure and recruitment, lack of proper and quality public administration education, low public sector motivation, and weak organizational culture are but some of them. Frequently, the result is that civil servants hide behind procedural rules and use these rules as excuses for their unwillingness to perform their duties (Koprić, 1999: 283–284).

2.12. Is NPM dead? Who knows? But, if so, public management is certainly not dead

Some scholars tend to claim that NPM is dead (Dunleavy et al., 2005) or is a serious trouble (de Vries, 2009). Is it true?

Public management is not quite a new phenomenon. Cameralism, for example, was one of the well-known European modernisation doctrines from the 16th to the mid 19th century. It was, among other issues, oriented towards the creation of more efficient national economies and state administrations.¹¹ An efficient administration required less money, and a sound economy was a solid basis for levying taxes necessary for financing

¹¹ »The cameralists were partly economists, partly political scientists, partly public administrators, and partly lawyers.« – Wagner, p. 2

the state mechanism.¹² That was the basic thesis of the then debate about state administration (police, namely), economy, and state finances.¹³

The pragmatic, more practice- and results-oriented approach strongly characterised the United States of America at different times, also. At the beginning of the 20th century, Frederick Winslow Taylor, an engineer and organisational consultant, began his famous book *The Principles of Scientific Management* (New York, 1911) by quoting President Theodore Roosevelt. In his address to the Governors at the White House, Roosevelt said: »The conservation of our national resources is only preliminary to the larger question of national efficiency.«

Well after that, efficiency appeared to be one of the core ideas from the mid-1970s. *Public Choice School* in science (Chandler and Plano, 1988: 105–106), a neoliberal ideology,¹⁴ and conservative politics, all began at that time, first in the United States and Great Britain, and then in the other Anglo-Saxon countries, but also in Europe and throughout the world.¹⁵

¹² »The whole aim of the cameralists was on the superficial plane of practical efficiency, not on the deeper level of economic philosophy.« (Small, 1909/2001: 135). »In essence, cameralism assumed that the foundation of the state lay in economic development, which in turn required the active management of government, whose administrators should, therefore, be trained and loyal to a strongly led state. Cameralism and NPM are similar ...« (Lynn, 2008: 116).

¹³ The most famous cameralist textbook by Joseph von Sonnenfels was titled *The Bases of the Science of Police (State Administration), Trade (Economy) and Finances (Grundsätze der Polizei, Handlung, und Finanzwissenschaft)*.

Cameralism »was the academic counterpart of modern bureaucratic administration and, hence, in its essence was administrative science« (Carl Friedrich, 1939, 130–131; cited in Lynn, 2008: 47). Hood and Jackson claim that New Public Management is a »new cameralism« (Hood and Jackson, 1991; cited in Lynn, 2008: 116).

¹⁴ Kickert also argues that *ideology* is in question (»ideological *Zeitgeist*«; see more in Kickert, 2001: 18). Depré et al. state the same: »With the election to power of President Reagan in the USA and Mrs Thatcher in Britain, neo-liberalism became the dominant political ideology in the Western world.« (Depré et al., 1996: 281). Or, in other words, commenting on a new concept of Neo-Weberian State, Pollitt says: »The pursuit of NWS-like solutions could be seen as an attempt to protect the 'European social model' from the depredations of global markets and neo-liberal ideology.« (Pollitt, 2008/2009: 13). Etc.

¹⁵ Neoliberal vision comprises »a free economy and a minimalist state« (Peck and Tickell, 2007: 247). Neoliberal vision lays on the presumption that a free economy and a minimalist state will ensure the maximum of social efficiency in terms of economic, maybe even social development. A minimal state along with its public administration should be the most efficient, to be able to perform the rest of the competences devoted to it in the manner that also ensures the maximum economy. However, Peck and Tickell, for example, elaborate that after the first neoliberal wave of the 1980s »the second neoliberal transformation occurred in the early 1990s« and »the neoliberal project itself gradually metamorphosed into

Performance efficiency and result-orientation are also stressed in administrative doctrines, primarily in the NPM (Kickert, 2001: 18).¹⁶

However, efficiency is an integral part of the concept of good governance, too. Thus, the UNDP in its publication *Rebuilding State Structures* (Bratislava, 2002) stresses that good governance means »a combination of democratic and *efficient* administration« (p.1; italicised by I. K.).¹⁷

The more recent administrative concepts, like Neo-Weberian State (NWS), consider efficiency to be one of the anchors of public administration, one of the basic values¹⁸ that must be taken into account, although not alone. It is a component of broader value mix, along with democratic and legal values (Kickert, 2001: 33; Randma-Liiv, 2008/2009: 77–78; Koprić, 2009a: 4–5).

Be that as it may, if ideology is removed, a lot of new techniques and tools are to stay as the elements of contemporary public administrations (see also Lapsley, 2010). Let us mention but a few: performance measurement and other tools of human resource management, case management, electronic support to modern public services, one-stop-shops and orientation towards citizens, public-private-partnership, quality mechanisms, such as common assessment framework (CAF), etc. Of course, the orientation towards the 3Es will be (is?) built into modern public administrations.

more socially interventionist and ameliorative forms« (Peck and Tickell, 2007: 253–254). Public administration efficiency is important in that context, too. – Peck and Tickell, 2007: 259

Bakker writes in a similar vein about »neoliberalizing nature« in political economy, having in mind water supply management in which »efficiency and cost-effectiveness are prioritized over social equity«. She argues that »the transformation of the English and Welsh water supply industry is an example of the neoliberalization of nature ...« – Bakker, 2007: 209

¹⁶ »While traceable to Frederick Taylor and, farther back, to Bentham's ideas about public administration, its (NPM's, comment of I.K.) origins are even earlier, in cameralism.« – Lynn, 2008: 116

¹⁷ UN DESA World Public Sector Report 2005 distinguishes between the three models of public administration: traditional public administration, public management and responsive governance. If those models are differentiated according to different answers on similar questions and problems, one can say that there are three different doctrines behind the models. The Report also uses word »doctrines«. – WPSR, 2005: 7–15

¹⁸ »Public management is not a value-free exercise«, claims Randma-Liiv, mentioning the famous three Es as the main values cluster of New Public Management – Randma-Liiv, 2008/2009: 77; see also Flynn, 2007: 129–133, and many others.

- 2.13. Is the GAPA, then, expendable? Not at all, but it should be modernized to fit in with the new circumstances, needs and expectations. Application of the NPM solutions is not, cannot and should not be the only motivation of administrative procedure reforms

The law should change if it wants to be applicable. Administrative procedural law should modernize to be in line with the changes in society and new expectations of citizens, businesses, investors, international actors, and other subjects. If it can borrow something from the public management repertoire, it can do so for everybody's sake. However, its role is not only to serve. It should also bind and guide. However, it cannot do so if it remains too rigid and too inflexible to move from its roots dating back to the circumstances at the beginning of the 20th century.

3. Conclusion

Public management and general administrative procedural law are working at different levels of public administration organisation. While public management is mostly oriented to the top and middle management levels, administrative procedures are the field of responsibility of lower echelons. Despite that, they irritate each other. Slow, complex, and unfair administrative procedures are not in line with resolute leadership and efficient management of public organisations. Deregulation, administrative simplification, wide management discretion and orientation towards results could disrupt and undermine legalistic culture and routine style of solving administrative cases.

Notwithstanding the possible risks of mutual influences, the solution can be found. On the one hand, public management should remain a necessary component of public administration functioning. What is needed is *legally bounded management*, to prevent and control the risks of discretionary power abuse. On the other hand, it is very important that *general administrative procedure* is not too rigid, too formalistic, and too inflexible. It should be significantly *modernised*. The formula:

$$LBM + MAP$$

(*legally bounded management plus modernised administrative procedures*) promises a solid base for administrative reforms in South-Eastern European countries bound towards the European Administrative Space.

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ADMINISTRATIVE TECHNOLOGY AND GENERAL
ADMINISTRATIVE PROCEDURE: CHALLENGES AND
CHANGES IN SOUTH-EASTERN EUROPE

Summary

Current reforms of the general administrative procedure acts in South-Eastern Europe can be seen as interplay between the legalistic tradition and political and managerial pressure on the rationalization of public administration.

Eighty-year tradition of general administrative procedure in the region, especially on the territory of the former Yugoslavia, is an obstacle to administrative modernisation, because administrative procedures are frequently used for and abused in various bureaucratic manoeuvres. Although general administrative procedures can ensure better legal protection of citizens if certain conditions are fulfilled, they should not be used for reducing the complexity of administrative tasks to routine legalistic decision-making. The development of administrative justice can add significantly to the improvement of legal protection of citizens, and it can simultaneously ensure streamlining, simplification and acceleration of administrative procedures. Such modernisation of administrative procedure can be, in the next step, accompanied by significant modernisation of public management. However, instead of the radical New Public Management ideas, legally bounded management seems to be the proper solution.

Key words: administrative technology, general administrative procedure, rule of law, New Public Management, good governance, European Administrative Space, legally bounded management

UPRAVNA TEHNOLOGIJA I OPĆI UPRAVI POSTUPAK: IZAZOVI I PROMJENE U JUGOISTOČNOJ EUROPI

Sažetak

Trenutačne reforme zakona o općem upravnom postupku u jugoistočnoj Europi mogu se promatrati kao međuigra između legalističke tradicije te političkih i menadžerskih pritisaka da se javna uprava racionalizira. Osamdesetogodišnja tradicija općeg upravnog postupka u regiji, a posebno na području bivše Jugoslavije, prepreka je upravnoj modernizaciji jer se upravni postupci često rabe i zlorabe za različite birokratske manevre. Iako opći upravni postupci pod određenim uvjetima mogu građanima pružiti bolju pravnu zaštitu, njima se ne bi trebalo koristiti za smanjivanje složenosti upravnih poslova do rutinskog legalističkog odlučivanja. Razvoj upravnog sudovanja može značajno pospješiti poboljšanje pravne zaštite građana, istovremeno omogućavajući usavršavanje, pojednostavnjivanje i ubrzanje upravnih postupaka. Takva modernizacija upravnog postupanja u idućem se koraku može popratiti znatnom modernizacijom javnog menadžmenta. Međutim, umjesto primjene radikalnih ideja novog javnog menadžmenta, primjerenim se rješenjem čini pravom ograničeni javni menadžment.

Ključne riječi: upravna tehnologija, opći upravni postupak, vladavina prava, novi javni menadžment, dobra uprava, europski upravni prostor, pravom ograničeni javni menadžment